IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

MACA.No. 1297 of 2005(C)

OPMV.1084/2002 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM
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APPELLANT/CLAIMANT.

JOY SEBASTIAN, S/O.VARKEY,
POTHANAMTHADATHIL HOUSE, THELLAKOM, ATHIRAMPUZHA,
KOTTAYAM.

BY ADV. SRI.SUBHASH CYRIAC

RESPONDENTS: RESPONDENTS.
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1. SAJU, S/O.VARGHESE, ANGADI ROADIL,
POTHIKULANGARAYIL, KIZHAKKAMBALAM VILLAGE,
PERUMBAVOOR.

2. UNNI ALIAS KRISHNANUNNI, KADAMBANADU
HOUSE, KIZHAKKAMBALAM VILLAGE, PERUMBAVOOR.

3. THE NATIONAL INSURANCE CO,. ALUVA.

R3 BY ADV. SRI.E.M.JOSEPH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 1297 OF 2005

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Dated this the 19th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Kottayam in O.P.(MV) 1084/02. The claimant sustained injuries in a road accident including fracture and he was awarded a total compensation of Rs.57,475/-. It is against that decision the present appeal is preferred.

2. Heard both sides. The learned counsel for the appellant would contend that the Tribunal has awarded grossly inadequate compensation and had not taken the disability into consideration at all. Therefore, the award requires interference.

3. A perusal of the award would reveal that the claimant had sustained fracture of ribs 2nd to 6th besides fracture of scapula and also fracture of fibula in right leg. Plaster cast was applied and he had undergone a prolonged treatment. He was aged 43 years at the time of the accident. He was a casual labourer. Since the accident had taken place in the year 2000, we feel that

the reasonable income per month will be at least Rs.2,000/- for the purpose of calculating the compensation. We also find that on account of the fracture of the scapula as well as fracture of the fibula certainly for a labourer there will be some permanent disability which would affect his working capacity. So, we fix it at 10%. Annual loss of earning is calculated by fixing the disability at 10% and then applying a multiplier of 15 it would come to Rs.36,000/-. The Tribunal has awarded a sum of Rs.25,000/- towards disability compensation. So, there will be an additional compensation of Rs.11,000/- under that head. In the light of taking the income at Rs.2,000/-, the loss of earning for 5 moths will be Rs.10,000/-. The Tribunal has awarded Rs.7,500/- under that head. Therefore, an additional compensation of Rs.2,500/- has to be awarded under that head. For the nature of injuries sustained including fracture of scapula, fracture of fibula etc. only Rs.8,000/- was given and that has also to be increased by Rs.1,500/-. Thus the claimant will be entitled to an additional compensation of Rs.15,000/-.

In the result, the M.A.C.A. is partly allowed and the claimant is awarded an additional compensation of Rs.15,000/- with 7% interest on the said sum from the date of petition till realisation

and the Insurance Company is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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